

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7808

Petition of SBA Towers III, Inc., and New Cingular )  
Wireless PCS, LLC, d/b/a AT&T Mobility, for a )  
certificate of public good, pursuant to 30 V.S.A. )  
§ 248a, for the installation of telecommunications )  
facilities in Plymouth, Vermont )

Order entered: 11/15/2011

**I. INTRODUCTION**

In this Order, the Vermont Public Service Board ("Board") approves the application filed on October 6, 2011, by SBA Towers III, Inc., and New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility ("AT&T") (collectively the "Petitioners"), pursuant to 30 V.S.A. § 248a, and the Board's Procedures Order ("Procedures Order"),<sup>1</sup> and grants the Petitioners a certificate of public good ("CPG") authorizing the installation of telecommunications facilities in Plymouth, Vermont (the "Project").

**II. BACKGROUND**

This case involves a petition and prefiled testimony filed by the Petitioners on October 6, 2011, requesting that the Board issue a CPG, pursuant to 30 V.S.A. § 248a, authorizing the installation of telecommunications facilities in Plymouth, Vermont.

On October 21, 2011, the Vermont Department of Public Service ("Department") filed a letter with the Board recommending that the Board issue an order approving the Project without further hearings or investigation.

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<sup>1</sup> *Amended order implementing standards and procedures for issuance of a certificate of public good for communications facilities pursuant to 30 V.S.A. § 248a*, Order issued August 10, 2011.

No other comments or requests for hearing regarding the Project have been filed with the Board.

The Board has determined that the petition and prefiled testimony have effectively addressed those criteria. Consequently, we find that the procedure authorized by § 248a is sufficient to satisfy the public interest, and no hearings are required.

### **III. FINDINGS**

1. The Project involves the installation of a new wireless telecommunications facility in Plymouth, Vermont. The Project is part of AT&T's Universal Mobile Telecommunications Service ("UMTS") upgrade that involves the installation and modification of wireless telecommunications services in Vermont. The ultimate objective of the project is to upgrade AT&T's Vermont network to provide 3G wireless technologies for simultaneous circuit-switched voice and packet-switched data communications. Exh. 8A at 2-3.

2. The Project is to be located on property owned by Michael and Michelle Lynds at 1123 Grand View Lodge Road in Plymouth, Vermont. Exh. 8A at 1.

3. The Project includes a new 140' monopine tower with up to twelve antennas mounted on the tower at a height of 132'. The Project also includes a new 11.5' by 20' equipment shelter, a 50 kW generator on an 11' by 4' concrete pad, and a possible future 500-gallon above-ground propane tank mounted on a 4' by 10' platform, within a new 50' by 80' fenced gravel compound. In addition, the Project includes improvements to an existing access road and overhead telecommunications lines extending 210' from the existing road to the compound. Exh. 8A at 1-2.

4. The Project will result in 8,850 square feet of total earth disturbance. Exh. 8A at 2.

5. The Project will not have an undue adverse impact on floodways, the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas. This finding is supported by findings 6-9, below.

6. The Project tower will be visible from certain vantage points; however, the visibility of the tower will be mitigated through the use of artificial pine branches and by locating the Project in an area surrounded by elevated slopes and below surrounding ridgelines. Accordingly, the

installation of the facilities will not have an undue adverse effect on aesthetics when viewed in this setting. Exhs. 8A at 4-5, and 8F.

7. There are no rare or irreplaceable natural areas, wildlife habitat, or endangered species within the vicinity of the Project. Exhs. 8A at 6, 8J, 8K, and 8L.

8. The Project is located within one mile of the Calvin Coolidge Homestead District, but will not be visible from this district. There are no other historic sites within the vicinity of the Project site. Therefore, the Project will not have an undue adverse impact on historic sites. Exhs. 8A at 5, and 8J.

9. The Project is not located in a floodway. Exhs. 8A at 6, and 8J.

#### **IV. DISCUSSION AND CONCLUSION**

The procedures governing Board approval of communications facilities are set forth in 30 V.S.A. § 248a. Section 248a(l) provides that the Board:

may issue rules or orders implementing and interpreting this section. In developing such rules or orders, the board shall seek to simplify the application and review process as appropriate . . .

In order to implement the statute the Board adopted the Procedures Order. In accordance with § 248a(b)(3), the Procedures Order, at Section II, defines a project of "limited size and scope" as:

a new telecommunications facility, including ancillary improvements, that does not exceed 140 feet in height; or an addition, modification, replacement, or removal of equipment at an existing telecommunications facility or support structure, and ancillary improvements, that would result in a total facility height of less than 200 feet and does not increase the width of the existing support structure by more than 20 feet. In order to qualify as a project of limited size and scope, construction of the project shall not result in earth disturbance of more than 10,000 square feet of earth, excluding temporary earth disturbance associated with construction activities.

As required by § 248a (c)(1), and set forth in Section IV(H) of the Procedures Order, in reviewing projects of limited size and scope the Board conditionally waives:

all criteria under 30 V.S.A. § 248a (c)(1), with the exception of 10 V.S.A. § 6086(a)(1)(D) (floodways) and 6086(a)(8) (aesthetics, historic sites, rare and irreplaceable natural areas, endangered species, necessary wildlife).

The proposed Project involves the construction of a new telecommunications facility and ancillary improvements. The Project tower will be 140' in height and the improvements will result in 8,850 square feet of earth disturbance. Therefore, the Project qualifies as a facility of "limited size and scope" as defined in § 248a(b)(3) and the Procedures Order. In reviewing projects of limited size and scope, the Board conditionally waives all review criteria with the exception of 10 V.S.A. §§ 6086(a)(1)(D)(floodways) and 6086(a)(8) (aesthetics, historic sites, rare and irreplaceable natural areas, endangered species, necessary wildlife).

Based upon all of the above evidence, the petition does not raise a significant issue with respect to the relevant substantive criteria of 30 V.S.A. § 248a, the public interest is satisfied by the procedures authorized in 30 V.S.A. § 248a, and the proposed Project will promote the general good of the State.

#### **V. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the installation and operation of communications facilities at the location specified in the above findings, by SBA Towers III, Inc., and New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont in accordance with 30 V.S.A. § 248a(a), and a certificate of public good to that effect shall be issued in this matter.

Dated at Montpelier, Vermont, this 15th day November, 2011.

<u>s/ James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/ David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/ John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: November 15, 2011

ATTEST: s/ Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: [psb.clerk@state.vt.us](mailto:psb.clerk@state.vt.us))*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*